To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2019

Ms. LOFGREN (for herself, Mr. BUCK, Mr. BACON, Mr. BARR, Mrs. BEATTY, Mr. BERA, Mr. BILIRAKIS, Mr. BLUMENAUER, Ms. BONAMICI, Mrs. BROOKS of Indiana, Ms. BROWNLEY of California, Mr. CALVERT, Mr. CÁRDENAS, Mr. CARSON of Indiana, Mr. CICILLINE, Ms. CLARKE of New York, Mr. COHEN, Mr. COMER, Mr. COOPER, Mr. COSTA, Mr. COURTNEY, Mr. COX of California, Mr. CROW, Mr. CURTIS, Ms. DAVIDS of Kansas, Mr. RODNEY DAVIS of Illinois, Ms. DEGETTE, Mr. DEUTCH, Mrs. DINGELLE, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. EMMER, Mr. ENGEL, Ms. ESCH, Mr. ESPAILLAT, Mr. ESTES, Mr. FITZPATRICK, Mr. FOSTER, Mr. GIBBS, Mr. GONZALEZ of Texas, Miss GONZÁLEZ-COLO´N of Puerto Rico, Mr. GUEST, Mr. GUTHRIE, Mr. HARDER of California, Ms. HERRERA BEUTLER, Mr. HICE of Georgia, Mr. HILL of Arkansas, Mr. HURD of Texas, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JEHANA, Mr. KING of New York, Mr. KINZINGER, Mr. KRISHNAMOORTHI, Ms. KUSTER of New Hampshire, Mr. LANGEVIN, Mr. LARSEN of Washington, Mr. LAWSON of Florida, Mr. LONG, Mr. LOWENTHAL, Mr. MALINOWSKI, Mr. MARSHALL, Mr. MASSIE, Ms. MATTISU, Mrs. McBATH, Ms. McCOLLUM, Mr. MCEACHIN, Mr. MCGOVERN, Mrs. RODGERS of Washington, Mr. MEEKS, Ms. MENG, Ms. MOORE, Mr. MORELLE, Mr. NORMAN, Mr. PALLONE, Mr. PANETTA, Mr. PASCRELL, Mr. PERRY, Ms. PINGREE, Mr. PRICE of North Carolina, Mr. RASKIN, Miss RICE of New York, Mr. RIGGLEMAN, Mr. DAVID P. ROE of Tennessee, Mr. RUTHERFORD, Mr. SARBAÑES, Ms. SCHATZ, Ms. SHALALA, Mr. SIRES, Mr. SMITH of Washington, Mr. SOTO, Ms. SPEIER, Ms. STEFANI, Mr. STEWART, Mr. STIVERS, Mr. SWALWELL of California, Mr. TAKANO, Ms. TITUS, Mr. TONKO, Mrs. TORRES of California, Mr. UPTON, Mrs. WAGNER, Mrs. WATSON COLEMAN, Mr. WELCH, Mr. WESTERMAN, Ms. WILD, Mr. WOODALL, Mr. YARMUTH, Mr. YOUNG, Mr. NEWHOUSE, Mr. NADLER, Mr. AGUILAR, and Mrs. MURPHY) introduced the following bill; which was referred to the Committee on the Judiciary
A BILL

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fairness for High-Skilled Immigrants Act of 2019”.

SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.

(a) In General.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended—

(1) in the paragraph heading, by striking “AND EMPLOYMENT-BASED”;

(2) by striking “(3), (4), and (5),” and inserting “(3) and (4),”;

(3) by striking “subsections (a) and (b) of section 203” and inserting “section 203(a)”;

(4) by striking “7” and inserting “15”; and

(5) by striking “such subsections” and inserting “such section”.

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(b) CONFORMING AMENDMENTS.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) in subsection (a)(3), by striking “both subsections (a) and (b) of section 203” and inserting “section 203(a)”;

(2) by striking subsection (a)(5); and

(3) by amending subsection (e) to read as follows:

“(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If it is determined that the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visa numbers to natives under section 203(a), visa numbers with respect to natives of that state or area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).”.
(c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(1) in subsection (a), by striking “subsection (e))” and inserting “subsection (d))”; and

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on September 30, 2019, and shall apply to fiscal years beginning with fiscal year 2020.

(e) TRANSITION RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to the succeeding paragraphs of this subsection and notwithstanding title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:

(A) For fiscal year 2020, 15 percent of the immigrant visas made available under each of paragraphs (2), (3), and (5) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that is not one of the two states with the largest aggregate numbers of natives who are beneficiaries of approved pe-
tions for immigrant status under such para-

(B) For fiscal year 2021, 10 percent of the
immigrant visas made available under each of
such paragraphs shall be allotted to immigrants
who are natives of a foreign state or dependent
area that is not one of the two states with the
largest aggregate numbers of natives who are
beneficiaries of approved petitions for immi-
grant status under such paragraphs.

(C) For fiscal year 2022, 10 percent of the
immigrant visas made available under each of
such paragraphs shall be allotted to immigrants
who are natives of a foreign state or dependent
area that is not one of the two states with the
largest aggregate numbers of natives who are
beneficiaries of approved petitions for immi-
grant status under such paragraphs.

(2) PER-COUNTRY LEVELS.—

(A) RESERVED VISAS.—With respect to
the visas reserved under each of subparagraphs
(A) through (C) of paragraph (1), the number
of such visas made available to natives of any
single foreign state or dependent area in the ap-
propriate fiscal year may not exceed 25 percent
(in the case of a single foreign state) or 2 per-
cent (in the case of a dependent area) of the
total number of such visas.

(B) UNRESERVED VISAS.—With respect to
the immigrant visas made available under each
of paragraphs (2), (3), and (5) of section
203(b) of such Act (8 U.S.C. 1153(b)) and not
reserved under paragraph (1), for each of fiscal
years 2020, 2021, and 2022, not more than 85
percent shall be allotted to immigrants who are
natives of any single foreign state.

(3) SPECIAL RULE TO PREVENT UNUSED
visas.—If, with respect to fiscal year 2020, 2021, or
2022, the operation of paragraphs (1) and (2) of
this subsection would prevent the total number of
immigrant visas made available under paragraph (2)
or (3) of section 203(b) of such Act (8 U.S.C.
1153(b)) from being issued, such visas may be
issued during the remainder of such fiscal year with-
out regard to paragraphs (1) and (2) of this sub-
section.

(4) TRANSITION RULE FOR CURRENTLY AP-
PROVED BENEFICIARIES.—

(A) IN GENERAL.—Notwithstanding sec-
tion 202 of the Immigration and Nationality
Act, as amended by this Act, immigrant visas under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) shall be allocated such that no alien described in subparagraph (B) receives a visa later than the alien otherwise would have received said visa had this Act not been enacted.

(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien is the beneficiary of a petition for an immigrant visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) that was approved prior to the date of enactment of this Act.

(5) RULES FOR CHARGEABILITY.—Section 202(b) of such Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.